

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUAN CARLOS MARTINEZ-OCHOA,)	Criminal No. 08-CR-199-L-1
)	
Petitioner,)	
)	ORDER DISMISSING WITH
v.)	PREJUDICE PETITIONER'S
)	MOTION UNDER 28 U.S.C. § 2255
UNITED STATES OF AMERICA,)	TO VACATE, SET ASIDE OR
)	CORRECT SENTENCE
)	
Respondent.)	
)	

On March 12, 2008, Petitioner filed an "Objection to the Court's Imposition of Probation." The Court liberally construes Petitioner's filing as a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside or correct sentence. The Court has reviewed the record in this case, which clearly establishes that Petitioner waived both his right to appeal and to collaterally attack his conviction and sentence. Plea Agreement ¶ 12. Petitioner's motion raises no challenge to the validity of that waiver, therefore this Court lacks jurisdiction to consider any collateral challenge to his conviction and sentence. *See Washington v. Lampert*, 422 F.3d 864, 869-70 (9th Cir. 2005 (recognizing that if sentencing agreement's waiver of the right to file a federal habeas petition was valid, district court lacked jurisdiction to hear the case)).


...

...

1 Accordingly, Petitioner's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28
2 U.S.C. § 2255 is **DISMISSED WITH PREJUDICE**.

3 **IT IS SO ORDERED.**

4
5 DATED: June 5, 2008

6 
7 M. James Lorenz
8 United States District Court Judge

9 COPIES TO:

10 PETITIONER
11 U.S. ATTORNEY'S OFFICE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28